



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HEADQUARTERS UNITED STATES ARMY FORCES COMMAND
1777 HARDEE AVENUE SW
FORT MCPHERSON GEORGIA 30330-1062

OCT 19 1998

AFLG-PR

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Contracting Information Letter (CIL) 99-4, Performance Requirements Summary (PRS)

1. This CIL is issued in response to several questions concerning the use of Performance Requirements Summaries (PRS), particularly in connection with Commercial Activities (CA) contracts. However, the information presented below is applicable to most solicitations.
2. The PRS identifies the key service outputs of the contract that will be evaluated by the Government to assure the Contractor meets the standards set forth in the Performance Work Statement (PWS). Until 1992, the format for the PRS was DA Form 5473-R, Performance Requirements Summary. This form was prescribed by DA Pam 715-15, Service Contract Administration (Mar 86), which also contained instructions for its use. However, in Jan 92, DA Pam 715-15 was rescinded, and the form, along with the instructions for its use, was abandoned as a formal acquisition document.
3. Consequently, DA Form 5473-R has not been maintained to keep it current with changes in acquisition policy and practice - for example, the use of Acceptable Service Levels (ASLs) vs. Acceptable Quality Levels (AQLs); and the use of a schedule of monetary deductions for discrete contract line items vs. reduction percentages for the total contract price. Also, the form fell into disfavor as the result of contractor challenges and case findings that the aggressive use of PRS payment deductions sometimes amounted to penalizing the contractor, which is not allowed.
4. The Commercial Activities Study Guide, DA Pam 5-20 (Oct 97), prescribes the use of DA Form 5473-R (Nov 85). Despite the fact that the form is outdated and its use is no longer supported by acquisition regulations, DA Pam 5-20 instructions concerning

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reductions in contract payment are acceptable, provided they are properly followed. Specifically:

a. For firm fixed-price, negotiated contracts, the specific reduction percentages must be **negotiated** with the contractor. In the solicitation, the 5473-R column for the percentages is left blank, and the contractor is instructed to complete it as part of his proposal (DA Pam 5-20, Section IV, 3-14.a(4)(c)). The government must evaluate and accept or negotiate reasonable deduction percentages. When used as a basis for payment reductions, the PRS is contractually binding on both the contractor and government and can only be changed by a bilateral modification. Care should be taken to ensure that only the key services have been identified; the surveillance methods to be used are appropriate and the results are documentable; and there are adequate and trained resources committed to perform the required type and level of surveillance.

b. For cost-type contracts, **payment reduction percentages** based on a proportion of the total contract price **do not apply**. The mandatory FAR clause 52.246-5, Inspection of Services - Cost Reimbursement, provides for reduction of **fee payments** only (including award fee). The DA Pam 5-20 Section IV, 3-14.a(4)(d) instruction to "add the deduct analysis to show the relative importance of each required service" is not to be interpreted as a requirement for payment deductions. It is viewed only as an optional or suggested use of DA Form 5473-R as a tool for determining priorities, allocating resources, etc., and not as a means of adjusting (reducing) contract payments.

c. Use of the form in an Invitation for Bid (IFB) for payment reduction **is not recommended**. The contracting officer should rely on the provisions of the appropriate Inspection of Services clause to enforce the quality performance standards.

5. Other points:

a. The PRS does not have to be in the DA Form 5473-R (or any specific) format. We suggest instead that the PRS be customized for each contract, and consist only of those headings or columns that will apply to the contract. As a minimum, these

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headings include: Required Service(s), PWS paragraph number(s); PWS standard; and the ASL. Lot size, method of surveillance and/or weight or proportion of service to contract price, should be used if appropriate and achievable for the contract.

b. The PRS has many beneficial uses, and we encourage its use as a basis for developing ASLs and quality surveillance plans; to provide functional and quality personnel and customers a convenient overview of services to be performed under the contract; and as a tool in support of award fee weights and determinations.

c. When it is to be used for payment reductions, the PRS is included in the solicitation as a Technical Exhibit. Otherwise, it should be included as an Attachment (for information only).

6. In summary, we encourage the use of the PRS as a means of identifying key performance outcomes and focusing resources to achieve the desired level of performance. Use of the PRS for payment reductions should be made only if it makes good business sense, and the government has the resources required for proper enforcement.

7. For additional information, contact Ms. Joan Sylvester, (404) 464-5237, DSN 367-6247, or email sylvesterj@forscom.army.mil.



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